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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/897,163	06/28/2001	Stephen C. Davis	A179 1010.1	1461
7590 03/15/2004			EXAMINER	
Womble Carlyle Sandridge & Rice, PLLC			VO, HAI	
P.O. Box 7037			ART UNIT	
Atlanta, GA 30357-0037			PAPER NUMBER	
			1771	

DATE MAILED: 03/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/897,163	DAVIS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Hai Vo	1771	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 January 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,6-11,13-33 and 35-44 is/are pending in the application.
- 4a) Of the above claim(s) 15-30 and 40-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-11,13,14,31-33,35,36,38 and 39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
2. Claims 31, 35, 36, 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Natesh (US 5,739,194) in view of Sato et al (US 5,360,835) substantially as set forth in the 10/23/2003 Office Action.
3. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Natesh (US 5,739,194) in view of Sato et al (US 5,360,835) as applied to claim 1 above, as evidenced by Huybrechts (US 5,936,026) substantially as set forth in the 10/23/2003 Office Action.
4. Claims 1-11, 13, 14, and 31-33, and 35- 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanduja et al (US 6,414,048) in view of Sato et al (US 5,360,835), as evidenced by Kreiser et al (US 6,245,267) substantially as set forth in the 10/23/2003 Office Action.
5. Claims 1-3, 6, 8, 9, 14, 31-33, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bluem et al (US 6,214,460) in view of Lamon et al (US 6,565,969) substantially as set forth in the 10/23/2003 Office Action.

***Response to Arguments***

6. Claim objections are considered moot in view of the cancellation of claims 12 and 34.

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7. The art rejections have been maintained for the following reasons. Applicant argues that since the examiner has not shown from the cited art the requisite motivating factors of facilitating mixing and processing the materials and higher tear strength, the obviousness can not be established. The arguments are not found persuasive for patentability. The examiner recognizes that obviousness can be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found in the knowledge generally available to one of ordinary skill in the art. Such can be found in several sources in the art including Miller et al (US 4,963,623), Andersson et al (US 5,002,985). Miller teaches the use of the modified NR latex compositions to provide improved tear strength (abstract) whereas Andersson teaches the use of latex to increase the rheology and performance properties (abstract). The use of the latex binder therefore provides the coating with improved rheology, performance properties and higher tear strength. It is noted that the motivation to combine the cited references may be changed in view of the teachings of Miller and Andersson but such certainly does not change the fundamental of the art rejections. Accordingly, the art rejections are thus sustained.

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Vo whose telephone number is (571) 272-1485. The examiner can normally be reached on M,T,Th, F, 7:00-4:30 and on alternating Wednesdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HV



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